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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,671	03/18/2004	Timothy G. Offerle	81095823FGT1905	2670

28549 7590 03/22/2006
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EXAMINER

TO, TUAN C

ART UNIT	PAPER NUMBER
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3663

DATE MAILED: 03/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/708,671	Applicant(s) OFFERLE ET AL.	
	Examiner Tuan C. To	Art Unit 3663	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-14 and 27-35 is/are pending in the application.
 4a) Of the above claim(s) 2-14 and 33-35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 27-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 April 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of claims 27, 28, 30, and 32 upon the elected Group II, Species A, b2, and c1 in the reply filed on 01/06/2006 is acknowledged. The traversal is on the ground(s) that claim 27 and claim 9 are similar and the applicant request to reconsider the restriction of Group I and II. The applicant also argues that the breakdown into multiple sub-species by the examiner, particularly paragraphs 6 and 7, do not appear to make logical sense. The applicant further argues the following: "how could one of claims 32-35 be selected while also picking one of claims 29-31".

The restriction requirement between Group I and Group II is deemed proper because the following:

Group I, claims 2-14, drawn to a process, classified in class 340, subclass 932.2.

Group II, claims 27-35, drawn to an apparatus, classified in class 701, subclass 83.

The inventions of Group I and Group II are distinct since the process of Group I can be practiced by a vehicle stability apparatus onboard a motor vehicle when the vehicle travels on a curve.

In response to the applicant regarding the election of species claims 29-31, the examiner withdraws said election. The restriction between the species c1-c4 of claims 32-35) is still proper.

The restriction between Group I, Group II, and species c1-c4 is still deemed proper and is therefore made FINAL.

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An action on claims 27-32 follows:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 27, 29-32 are rejected under 35 U.S.C. 102 (a) as being anticipated by Takagi et al. (US 20030080877A1).

With respect to claim 27, Takagi et al. discloses a system for monitoring area around a vehicle, wherein the vehicle comprises a shift lever having a reverse position generating a reverse position signal (Takagi et al, page 3, paragraph 0047, lines 3-9), and a controller (22) coupled to the shift lever, and that said controller (22) applying brake-steer (or changing turning radius) in response to the reverse position signal (Takagi et al., paragraphs 0047 and 0049).

With regard to claims 29 and 31, Takagi et al. do not mention “apply brake-steer by applying a first brake and a second brake to reduce the turning radius of the vehicle” or “apply brake-steer by applying an increased drive torque to a second wheel relative to the first wheel”, however, while teaching the device for monitoring area around a vehicle, Takagi et al. inherently discloses such features because the controller (22), as

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represented in figure 1, controls brake-steer (known as turning radius) by applying the brakes of the vehicle during rearward to a parking lot (see Takagi et al., figure 4A), and also applying an increased drive torque of second wheel compared to a first wheel so that vehicle (80) can accurately move backward to right position of the parking space.

With regard to claim 30, Takagi et al. further discloses the controller (22), which is programmed to change the turning radius (Takagi et al., paragraph 0049; figure 4A; figure 11) by applying at least one brake at a first wheel to reduce a vehicle turning radius.

With regard to claim 32, the controller (22), shown in figure 1, is coupled to the shift position sensor (26) and steering sensor (28), wherein said sensors provide the input signal to the controller (22). The controller (22) is programmed to control turning radius (brake-steer) in response to the input signals from said sensors (Takagi et al., page 3, paragraph 0040; paragraph 0041, lines 12-17).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Takagi et al. (US 20030080877A1) and in view of Naito (US 4890685).

As represented above, Takagi et al. teaches a vehicle system for monitoring area around a vehicle, wherein the vehicle comprises a shift lever having a reverse position generating a reverse position signal. Takagi et al. do not disclose "a transfer case having a transfer case mode, said controller changing the transfer case mode based on brake-steer".

Naito teaches a vehicle control system including a transfer (10) with the transfer case (22) having a transfer case mode (Naito, column 3, lines 62-65), and that a control unit (45) is configured to change the driving mode based on the turning radius (Naito, column 6, line 63-66).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the teachings as taught by Naito to the vehicle's system of Takagi et al. would increase the accurate control of moving backward of a

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vehicle and therefore to minimize a possible collision between the vehicle with an obstacle.

Response to Arguments

The request for continuation of examination filed on 07/20/05 has been fully considered. A new rejection is issued based on the new cited references of Takagi et al. and Naito. The indicated of allowable of claim 28 has been withdrawn.

Conclusions

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan C To whose telephone number is (571) 272-6985. The examiner can normally be reached on from 8:00AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Patent Examiner,

A handwritten signature in black ink, appearing to read 'Tuan C To', written over a horizontal line.

Tuan C To

March 16, 2006